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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Luis F Rodriguez,

10 Plaintiff,

11 v.

12 ACCC Insurance Company, et al.,

13 Defendants.  
14

No. CV-16-00998-PHX-ROS

**ORDER**

15 Plaintiff asserted three counts in this suit: 1) Breach of Contract; 2) Breach of the  
16 Implied Covenant of Good Faith and Fair Dealing; and 3) Consumer Fraud. The Court  
17 granted summary judgment in Plaintiff's favor on Count 1, which entitled Plaintiff to  
18 recover all the damages he was seeking. Counts 2 and 3 have not been adjudicated but  
19 should the judgment on Count 1 be affirmed on appeal, this case would be over. While  
20 all the counts involve the same basic facts, each count involves distinct legal elements  
21 and will require proof of different facts to be successful. *See Jewel v. Nat'l Sec. Agency*,  
22 810 F.3d 622, 628 (9th Cir. 2015) (noting "the issues raised on appeal [need not] be  
23 completely distinct from the rest of the action" for 54(b) certification to be merited).  
24 Therefore, pursuant to Federal Rule of Civil Procedure 54(b), there is no just reason to  
25 delay entry of final judgment on Count 1. Based on that judgment, the remaining two  
26 counts will be stayed pending further Order of the Court.

27 Accordingly,


28 **IT IS ORDERED** the Clerk of Court is directed to enter a final judgment as

1 follows: Judgment shall be entered on Plaintiff's claim for Breach of Contract (Count 1)  
2 in favor of Plaintiff and against Defendant ACCC Insurance Company for \$1,053,920.45  
3 (calculated as the \$950,444.00 judgment Rodriguez obtained against the Pitas in state  
4 court, plus \$103,476.45 in pre-judgment interest accrued at 4.25% per annum from  
5 December 10, 2015 to July 2, 2018), with additional pre-judgment interest accruing at  
6 \$110.67 per day from July 2, 2018 to the date this judgment is entered. Interest at the  
7 rate of 2.35% per annum shall accrue on this judgment from the date the judgment is  
8 entered until it is paid in full.

9 **IT IS FURTHER ORDERED** Counts 2 and 3 are stayed pending further Order  
10 of the Court.

11 Dated this 5th day of July, 2018.

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Honorable Roslyn O. Silver  
Senior United States District Judge